

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE March 26, 2003
TIME 7:00 P.M.
PLACE CO. OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE IN 47901

MEMBERS PRESENT

Jean Hall
Steve Clevenger
Edward Weast
Ralph Webb
Bruce Junius
Gary Schroeder

MEMBERS ABSENT

Mark Hermodson

STAFF PRESENT

James Hawley
Sallie Fahey
Krista Trout
Joanna Grama, Atty.
Michelle D'Andrea

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 26th day of March 2003, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

Vice President Jean Hall called the meeting to order.

Bruce Junius moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the Bylaws of the Area Board of Zoning Appeals, the application and all documents filed therewith, the staff report and recommendation on the application to be heard this evening, and responses from the checkpoint agencies. Edward Weast seconded and the motion carried by voice vote.

I. APPROVAL OF MINUTES

Bruce Junius moved to approve the minutes of the February 26, 2003 public hearing. Edward Weast seconded and the motion was carried by voice vote.

II. NEW BUSINESS

None

III. PUBLIC HEARING

Jean Hall read the president's statement regarding hearing procedures.

1. **BZA-1632—JAY JOLLEY/SIGNMAN INC.:** Petitioner is seeking a sign variance to allow 155.8 sq. ft. of signage instead of the maximum permitted 132.2 sq. ft. for

the Walgreens store located at 1000 Sagamore Pkwy. W., West Lafayette, Wabash 7 (SE) 23-4. (UZO 4-8-5)

Bruce Junius moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Sallie Fahey presented slides of the zoning map, aerial, sit plan, sign diagram and 4 site photos. She pointed out that neighboring properties, CVS and Osco, have sought similar variances in the past, and have been denied. She read the staff report with recommendation of denial. She read the following letters into the record:

Scott Snyder, West Lafayette City Engineer, 509 West Navajo Street, West Lafayette, IN, in opposition.

Daniel and Susan Blomeke, 9001 Kent Ave, West Lafayette, IN, in opposition.

Jay Jolley, 2217 Massachusetts Ave, Indianapolis IN, stated that he represented Walgreens Pharmacy. He informed the Board that Walgreens would like to be considerate of their neighbors, but are requesting this variance in order to advertise their new hours of operation. He asked for consideration and said he was available to answer any questions.

Steve Clevenger asked if the additional signage of 15.5 square feet was over 140.3 square feet or an additional 8 square feet. He asked staff to clarify if it was from a base of 140.3 or 132.2.

Krista Trout stated that the maximum permitted was 132.2, so they are already over.

Steve Clevenger asked what would happen with the overage if this was denied this evening.

Sallie Fahey stated that it would be at the discretion of the City of West Lafayette, whether they would deal with it as a violation or forgive it because it was their miscalculation.

Jay Jolley stated that he was not aware that the existing signage would be an issue with this variance. He mentioned that Walgreens was also not aware that the extra square footage would be an issue. He asked for a continuance in order to discuss this issue with Walgreens.

Jean Hall asked legal counsel if they had to retract a motion in order to allow this request.

Joanna Grama stated that the continuance could be allowed.

Sallie Fahey suggested the petitioner reduce the request in order to cover the error.

Jean Hall clarified that if they changed the request and it was still denied, the situation would remain the same.

Sallie Fahey stated that was correct.

Jean Hall stated his opinion that they should allow the continuance.

Ralph Webb agreed.

Bruce Junius asked if that would be up to West Lafayette to determine.

Jean Hall stated that any action addressing the overage would be up to West Lafayette. He said that in regard to the variance and a vote, the petitioner should have time to confer with Walgreens on the potential outcome and ramifications. He mentioned that neither he nor legal counsel had a problem with granting the continuance.

Jay Jolley confirmed that neither he nor Walgreens was aware of the potential violation.

Ralph Webb moved to continue **BZA-1632—JAY JOLLEY/SIGNMAN INC** to the next scheduled Area Board of Zoning Appeals Meeting. April 23, 2003 Edward Weast seconded and the motion passed by voice vote.

2. **BZA-1633—AT&T WIRELESS SERVICES:** Petitioner is seeking a special exception to allow a 198' tall (including lightening rod) primary communications tower in the A zone in a 85' X 85' easement within a 3.33 ac. tract on property located at 7550 Fox Tail Lane off CR 775E near Americus, Washington 16 (S ½) 24-3. (UZO 3-2)

Bruce Junius moved to hear and vote on the above-described request. Edward Weast seconded the motion.

Krista Trout presented slides of the zoning map, aerial, site plan, tower diagram and three site photos. She acknowledged that Sallie Fahey was passing out a memo from the petitioner. She read the staff report with recommendation of approval.

Andy Anderson, representing AT&T Wireless 601 Main Street, Dowagiac, MI, stated that AT&T is attempting to expand its coverage. He explained that this is a mainly rural area and the FCC has challenged all wireless providers to cover more than just urban areas and highway corridors. He said that when the site acquisition process begins, they always start with trying to find a colocation site first. He presented a poster board showing the coverage area that the tower will have. He said that the question he most frequently is asked is if they looked for a colocation first. He explained the process of how and where they look. He presented a memo from the FCC database showing that there is not another tower in a two-mile radius of where they need one to be. He said that he appreciated the Board's time and consideration.

Bruce Junius asked for confirmation that they would be adding 118 more towers in rural areas of Indiana.

Andy Anderson stated that there would be 118 additional antenna locations.

Bruce Junius asked how many of the new antennas would be new structures as opposed to existing colocations.

Andy Anderson stated that all of the sites have not been identified yet, but the estimation is about 60% on existing towers. He explained that this is a high number due to the fact that only rural areas are under consideration.

Bruce Junius asked for clarification on the size of the radius they investigate.

Andy Anderson stated that the search area is a $\frac{1}{4}$ - $\frac{1}{2}$ mile radius from the center of the area they wish to cover.

Bruce Junius asked how much area this tower would cover.

Andy Anderson replied that the average tower covers 7-15 miles depending on topography. He said that in this circumstance he expects this tower to cover a 6-8 mile radius.

Steve Clevenger asked if Foxtail Drive was a private drive.

Andy Anderson replied yes.

Ralph Webb asked if the staff had verified the petitioner's statement that the Federal Aviation Administration would not require warning lights for this tower.

Krista Trout stated that in this circumstance she felt satisfied with the explanation that petitioner gave when staff asked the same question. She deferred to Andy Anderson for further elaboration.

Ralph Webb stated that he would like further assurance, beyond just the petitioner's claim.

Andy Anderson stated that once a site is found the first step is to go to the FAA database and provide them with the latitude and longitude of the site being considered and they give you the basic requirements for that site. He said that response will either include lighting and height requirements or needs further study. He informed the Board that the response for this site stated no requirements needed for height or lights.

Jean Hall asked if a copy of that was provided to staff.

Andy Anderson replied that it was not. He explained that all of their towers have to be registered with the FAA prior to construction and if the Board would like to require that as a condition of the special exception they provide that report, that would not be a problem.

Ralph Webb asked legal counsel if that was necessary. He said that he wanted to ensure that the responsibility of a disaster was on AT&T, not on the County or on the Board.

Andy Anderson explained that AT&T would be submitting a request for approval to build the tower. He said that the FAA's preliminary review would say that the tower was authorized to a certain height and whether or not lights would be required. He stated that at the completion of the tower, they have to submit a survey, signed by a licensed surveyor, to the FAA, stating all requirements and locations were met. At that time the FAA will give final approval. He explained that if they do not meet all FAA requirements or there is any deviation from the preliminary review, the FAA will demand that AT&T remove the tower. He stressed that the FAA would hold AT&T responsible and the FAA is the final authority. He reiterated that all of the approvals could be a condition of the special exception, and he could provide staff with all of them. He re-emphasized that they would not have to worry because if they do not follow guidelines the FAA will insist they remove the tower.

Ralph Webb stated that he appreciated that answer and hoped that he would provide the approvals out of courtesy. He asked how the surrounding properties would be effected. He pointed out that some of the adjacent properties were marked for future expansion.

Andy Anderson stated that the site is located on Richard Beckner's personal lot and would not affect future development. He pointed out that Richard Beckner owns most of the surrounding property.

Jean Hall said that he was concerned that the tower was kept at 198 feet just to avoid the 200 foot requirement for lighting. He said that was probably still determined by the FAA but was concerned.

Andy Anderson commented that the 200' requirement was the standard, unless it was in the flight path of an airport. He informed the Board that if they required lighting even though the FAA did not, they could make that a condition and AT&T would comply. He explained that the reason for the rule was if a pilot sees lights he assumes it is over 200' or it is in the path of an airport. He stated that although the FAA will not intercede, they prefer that they not be lighted.

Jean Hall asked if this new tower would have room for other carriers to be collocated on it.

Andy Anderson stated that the tower would be able to handle at least four additional like providers. He stressed that they would have to be similar providers, as in other wireless providers. He said that there is also space on the ground for additional providers. He said that information would be included on the building permit information. He stated that if there was other type of providers, like whip antennas there would be room for 10 or 12.

The Board voted by ballot 6 to grant –0 to deny thus approving **BZA-1633—AT&T WIRELESS SERVICES.**

Andy Anderson stated that he does this for a living and comes in contact with 100s of Zoning Boards a year. He said that he waited until after the vote to make this statement so that it would not influence their decision. He said that he was treated in a very professional manner by the planning staff. He mentioned that he had made some mistakes when he

started this application and the staff was extremely helpful. He said that he appreciated all their help and professionalism.

Jean Hall thanked him for his comments and said that the Board was proud of the staff too.

Jean Hall stated that unless any member has an objection, the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

IV. ADMINISTRATIVE MATTERS

Sallie Fahey stated that the Area Plan Commission has hired Jay Seeger to represent them as well as the BZA. She mentioned that this would be Joanna Grama's last meeting.

Jean Hall thanked Joanna Grama and her firm. He welcomed Jay Seeger.

V. ADJOURNMENT

Bruce Junius moved to adjourn the meeting. Edward Weast seconded and the motion carried by voice vote.

The meeting adjourned at 7:50 P.M.

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Assistant Director